

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES L. JOHNSON,

Plaintiff,

v.

RON HAYNES, *et al.*,

Defendants.

Case No. C22-5492 RSM

ORDER DENYING MOTION FOR
RECONSIDERATION

Before the Court is Plaintiff James L. Johnson's Motion for Reconsideration. Dkt. #26. On July 11, 2022, Plaintiff filed a Motion for Leave to Proceed in Forma Pauperis ("IFP"). Dkt. #3. On July 25, 2022, Magistrate Judge Brian A. Tsuchida granted Plaintiff's application to proceed IFP pursuant to 28 U.S.C. § 1915. Dkt. #5. The order stated:

Subsequently, if the prisoner's account exceeds \$10.00, each month the agency having custody of the prisoner is directed to collect and forward payments equal to 20 percent of the prisoner's preceding month's income credited to the prisoner's account. In the event that the monthly payment would reduce the prisoner's account below \$10.00, the agency should collect and forward only that amount which would reduce the prisoner's account to the \$10.00 level.

Id. ¶ 2. On October 17, 2022, Plaintiff filed the instant Motion requesting the Court to alter Judge Tsuchida's order to instead read:

Subsequently, if the prisoner's account exceeds \$25.00, each month the agency having custody of the prisoner, is directed to collect and forward payments equal to 20 percent of the prisoner's preceding month's income credited to the

prisoner[']s account. In the event that the monthly payment would reduce the prisoner's account below \$25.00, the agency should collect and forward only that amount which would reduce the prisoner's account to the \$25.00 level."

Dkt. #26 ¶ 4.

"Motions for reconsideration are disfavored." LCR 7(h)(1). "The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence." *Id.* "The motion shall point out with specificity the matters which the movant believes were overlooked or misapprehended by the court, any new matters being brought to the court's attention for the first time, and the particular modifications being sought in the court's prior ruling." LCR 7(h)(2). A motion for reconsideration shall be plainly labeled as such. *Id.* The motion shall be filed within fourteen days after the order to which it relates is filed. *Id.* Failure to comply with LCR 7(h)(2) "may be grounds for denial of the motion." *Id.*

First, Plaintiff's Motion is untimely. Plaintiff filed this Motion over three months after Judge Tsuchida granted his IFP application. *See* LCR 7(h)(2).

Second, Plaintiff has failed to demonstrate any manifest error in the Court's prior ruling or new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence. Plaintiff argues that the monetary threshold for collecting payments from his prisoner account should be increased from \$25 to \$10, because a Washington statute defines "indigent inmate" as "an inmate who has less than a \$25 balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the 30 days previous to the request. to 20 percent of the prisoner's preceding month's income." Dkt. #26 ¶ 2–3 (citing RCW 72.09.015(15)). However, IFP applications are governed by federal law, specifically 28 U.S.C. § 1915, and not Chapter 72.09 of the Revised Code of Washington. 28 U.S.C. § 1915(b)(2) clearly states:

1 After payment of the initial partial filing fee, the prisoner shall be required to make
2 monthly payments of 20 percent of the preceding month's income credited to the
3 prisoner's account. The agency having custody of the prisoner shall forward
payments from the prisoner's account to the clerk of the court each time the
amount in the account exceeds **\$10** until the filing fees are paid.

4 (emphasis added). Accordingly, this Motion will be denied.

5 Having considered the Motion and the remainder of the record, the Court hereby finds
6 and ORDERS that Plaintiff James L. Johnson's Motion for Reconsideration (Dkt. #26) is
7 DENIED.

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9 DATED this 19th day of October, 2022.

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12 RICARDO S. MARTINEZ
13 UNITED STATES DISTRICT JUDGE
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